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January 14, 2010

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW, Suite TW-A325
Washington, DC 20554

Re: Comments of the New York State Office of Chief Information Officer/Office for Technology (CIO/OFT) in WC Docket No. 07-52, GN Docket No. 09-191; Notice of Proposed Rulemaking in the Matter of Preserving an Open Internet, Broadband Industry Practices

Dear Ms. Dortch:

The State of New York recognizes the importance of broadband and the potential that broadband has to improve the lives of its citizens. That is why the State of New York is committed to making access to affordable broadband a reality for all New Yorkers. In support of this commitment, the State adopted the "New York State Universal Broadband Strategic Roadmap" ("Strategic Roadmap"). The Strategic Roadmap represents the State's Universal Broadband Policy and presents the New York State Broadband Strategy ("Strategy").

New York State's commitment to making broadband accessible for all New Yorkers is evidenced by, and supported by, the following aggressive strategic goals for advancing broadband in the State:

- Provide all New Yorkers with access to high speed, affordable broadband services from anywhere, at anytime;
- Close the digital divide and increase digital literacy levels by providing training and educational opportunities in unserved and underserved, urban and rural communities;
- Foster economic development and build stronger public/private partnerships;
- Accelerate the use of state e-government services offered over the Internet to citizens, businesses and visitors;
- Create jobs through innovative community-based digital literacy and technology training programs to increase household technology adoption rates; and
- Achieve and maintain speed and coverage goals aligned with state and federal policies to achieve and sustain competitive advantages.

New York State supports universal access to open and robust broadband, and therefore is supportive of the Federal Communication Commission's (FCC) efforts to preserve and maintain an open and

robust Internet, which promotes a future of opportunity, innovation and a vibrant marketplace of ideas.ⁱⁱ

The establishment of a neutral internet with rules that are clearly defined allows all users to participate in the ongoing innovation of services and technologies. Since the internet is a multinational infrastructure it makes sense that a universal set of rules be established at the highest possible level. However, states should be reserved the right to apply their own rule of law beyond that of the federal government.ⁱⁱⁱ

As with many other technologies, it is recommended that a panel of non-biased experts from recognized trade organizations be used to assist the FCC in establishing a universal set of policies and Quality of Service (QoS) thresholds for the various technologies that can deliver data communications services. It is also recommend that a similar group of industry experts be used to establish basic guidelines on acceptable network management practices. The establishment of high level guidelines will go a long way in allowing various governmental agencies to ensure compliance and enforce policies.

CIO/OFT agrees with the FCC that network operators should not prevent users from accessing lawful Internet content, applications and services of their choice; prevent users from attaching non-harmful devices to the network; discriminate against particular Internet content or applications; or fail to be transparent about their network management practices in accordance with established network management practices. CIO/OFT believes that the 6 principles that the FCC seeks to transform into rule will not only promote innovation, investment, competition and users' interests, but will support and help to advance the strategic goals of New York State.

Respectfully submitted,



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ⁱ See New York State Council for Universal Broadband, New York State Universal Broadband Strategic Roadmap 2009), available at http://www.oft.state.ny.us/assets/documents/Final_Broadband_Strategy_June2009.pdf

ⁱⁱ See Prepared Remarks of Chairman Julius Genachowski, Federal Communications Commission, *Preserving a Free and Open Internet: A Platform for Innovation, Opportunity, and Prosperity*, The Brookings Institute, Washington D.C. , September 21, 2009, available at: http://www.fcc.gov/Daily_Releases/Daily_Business/2009/db1005/DOC-293837A1.pdf

ⁱⁱⁱ We caution that any rules that have the likelihood to discourage build-out or competition, or significantly disrupt the existing business model be carefully weighed, since the impact could have long term consequences that harm the overall objective.